

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 15, 17 and 27 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 15-24 and 27-34 are now pending in this application.

In the May 23, 2007 Office Action, the Examiner rejected multiple claims under 35 U.S.C. §112 due to a number of issues relating to antecedent basis.¹ In response to these rejections and in order to place the application in proper condition for appeal, Applicant has amended claims 15, 17 and 27 to eliminate any potential issues regarding proper antecedent basis. In particular, these amendments replace the term “local customer terminal” with “local user terminal,” “second interface” with “second wireless interface,” and “third interface” with “third wireless interface.” In making these amendments, Applicant is not intending to narrow the scope of these claims in any way, nor is it intending to surrender any claim coverage with regard to the Doctrine of Equivalents. The Examiner is strongly encouraged to contact the Attorney for Applicant if he has any questions concerning this issue.

In addition to the above, Applicant respectfully requests that the finality of the May 23, 2007 Office Action be withdrawn on the grounds that the Examiner has failed to address several arguments made by Applicant with regards to U.S. Patent No. 6,477,152 (Hiatt). In particular, in its March 20, 2007 Amendment and Reply, Applicant discussed in detail why Hiatt fails to teach several features which the Examiner has asserted to be present therein,

¹ The Examiner identified several antecedent basis issues in claim 1. However, claim 1 was cancelled by Applicant in a previous Amendment and Reply. Applicant is therefore operating under the assumption that the Examiner intended to refer to claim 15, which is the only other independent claim that is still pending in the present application.

including the use of a server (not multiple devices) and the use of the same interface to both request and receive information. However, in the May 23, 2007 Office Action, the Examiner essentially repeated his prior rejections with regard to Hiett, while completely failing to address any of Applicant's arguments concerning Hiett's failure to teach the above features.

Additionally, while the Examiner has asserted that Applicant's claim amendments necessitated new grounds of rejection, Applicant submits that, in terms of the prior art, the Examiner's use of a new reference (U.S. Patent No. 6,477,152 (Hebert)) was directed entirely to a feature which had already existed in the claims before Applicant's amendments, namely the feature of switching between interfaces if one interface cannot establish a connection. Applicant made absolutely no amendments to the claims in the March 20, 2007 Amendment and Reply that related to this feature. As discussed in this prior Reply, all of Applicant's amendments were intended to clarify features which were missing from Hiett, not the other cited references. However, and as discussed above, the Examiner has ignored all of Applicant's arguments concerning Hiett and has repeated his prior rejections (as to Hiett) without comment. In fact, none of the Examiner's arguments regarding Hebert relate in any way to the text added by Applicant. Because the Examiner's new rejections do not assert that the features described in the amended text is found in Hebert, it is improper to assert that the latest prior art rejections could not have been made in a prior action. As such, any assertion that it was Applicant's amendments which necessitated the new rejections based upon the prior art is incorrect.

With regard to the substance of the Examiner's rejections, Applicant reiterates that Hiett is missing multiple elements which the Examiner has asserted are present therein. As discussed at length in the March 20, 2007 Amendment and Reply, Applicant notes that independent claims 15 and 27 both require that a server be used to both attempt to establish a connection with the remote server and permit the local customer terminal to access (i.e., download) content from the remote server. The system in Hiett, however, does not have a single device which both serves as the initial transmission mechanism (the transmission unit) and the device via which the terminal receives the remote content (the receiver). This is made clear in Figure 1 and the specification, where the receiver (col. 3, l. 63-col. 5, l. 20) is discussed as being an entirely separate system than the information request

system/transmission unit (col. 5, l. 40-col. 6, l. 50). In other words, Hiatt does not teach a single server for performing all of the processes of independent claims 15 and 27, as Hiatt does not teach a server for both transmitting and accessing (i.e., receiving) information. In addition, because the embodiments described and shown in Hiatt consistently teach using separate devices for these processes, one cannot assert that it would have been obvious for one skilled in the art to go against these clear teachings by combining the devices.

Additionally, when it comes to the information request system sending information and the receiver receiving information in Hiatt, Hiatt specifically teaches that different interfaces and communication media be used for each process. Throughout the reference, Hiatt repeatedly discusses the use of two different communication media—with one for sending information and the other for receiving information. In fact, the Summary of the Invention in Hiatt clearly states that “[t]he receiver is coupled to the data source via any appropriate and available medium...and is suitably different from the medium coupling the information request system to the data source.” (emphasis added).² Furthermore, given that different media are used, and different devices are used to send and receive information, it is clear that the receiver and transmission unit use different interfaces in order to send and receive information, which is clearly different from the claims as amended. For example, Figure 7 and col. 4, ll. 26-42 describe the receiver as having its own interface(s), while Figure 8 and col. 6, ll. 23-36 describe the transmission unit as including its own transmission mechanisms (i.e., interfaces). Therefore, regardless of which media are ultimately selected for transmitting and receiving data, the interface for transmitting information is not the same interface that is used for receiving data. It was for purposes of clarifying this difference that Applicant previously amended the independent claims to specifically describe the local customer terminal as using the server to access the remote content via the second interface (or third interface). In other words, regardless of which interface is ultimately used, the same interface is used to both request the information and to receive it. As discussed above, Hiatt

² Although Hiatt does state at col. 21, ll. 45-48 that the two communication media “may be the same or different media, or separate channels of the same medium,” this is clearly contradicted by the rest of the reference, which clearly teaches away from this feature. Additionally, even if the same medium were used, Hiatt nevertheless explicitly teaches the receiver having interfaces separate from the information request system. *See, e.g.,* col. 4, ll. 26-42 (for the receiver); col. 6, ll. 23-36 (for the transmission unit).

specifically teaches away from this feature and, as also discussed above, the Examiner failed to consider or even acknowledge these arguments.

Because the above features are neither taught nor suggested by Hiett, any rejections asserting that these features are present in Hiett are improper.

With regard to Hebert, Applicant submits that the Examiner has misinterpreted this reference and, even if the suggested combination were appropriate, the combination would still fail to teach all of the features of the pending claims. In particular, Applicant notes that pending claims 15 and 27 specifically describe attempts to establish connections with a remote server via the various interfaces, where an attempt to make a connection via one interface is performed in response to a failure to establish a connection using another interface. This is not what is taught by Hebert. Instead, Hebert is directed specifically to changing connections when an existing connection suffers from a degradation in performance. This is clearly discussed, for example in the Abstract of Hebert, which states:

Upon detecting a degradation in performance of the primary trunked connection that exceeds a threshold, the failover mechanism halts monitoring of the primary trunked connection, configures the second multi-port network interface with the parameters of the primary multi-port network interface, and brings up the second interface. (emphasis added).

This section, and others in Hebert, clearly indicate that Hebert does not teach attempting a new connection when a different connection could not be established in the first place, since the reference only teaches making a handover when an existing connection suffers from degradation. As such, Hebert cannot be interpreted as teaching any attempt to establish one connection in response to a failure to establish a connection using a different interface.

In addition to the above, Applicant also notes that Hebert is simply not related to the technology specifically relied upon by the Examiner in Hiett. Hebert never mentions, much less teaches, the use of a communications system in a vehicle of any sort, nor does it teach, suggest, or hint at wireless communications or interfaces at all. As such, Hebert is directed to an area which completely different from Hiett. As evidence of this fact, Applicant also notes

that Hebert is listed as belonging in U.S. Classes 709 and 714, where the classes that were searched during prosecution of Shah et al. were limited to these same classes. In contrast, Hielt is listed as belonging to U.S. Class 370, where during its prosecution, classes 370 and 455 were searched. Therefore, Applicant submits that Hebert and Hielt are directed to entirely different subject matter and, as such, one clearly would not look to the field of Hebert to make the modification suggested by the Examiner without the improper use of hindsight.

For all of the above reasons, Applicant submits that the Examiner's rejections under 35 U.S.C. §103(a) cannot stand.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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